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5	Attorney for Plaintiff Edgardo Semini	ano	
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8	UNITED STA	TES DISTRICT COURT	
9	CENTRAL DIS	TRICT OF CALIFORNIA	
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11	EDGARDO SEMINIANO,	) CASE NO: CV 10-01673- JST (JEMx)	
12	Plaintiff,	<ul><li>[PROPOSED] STATEMENT OF</li><li>UNCONTROVERTED FACTS AND</li></ul>	
13	VS.	) CONCLUSIONS OF LAW	
<ul><li>14</li><li>15</li></ul>	XYRIS ENTERPRISE, INC.; ATKINSON CARE HOME; MUQUET DADABHOY; AND	DATE: JANUARY 3, 2011 TIME: 10:00 A.M. COURTROOM: 10A	
16	TERÈSITA CASTANEDA,  Defendants.	JUDGE: HONORABLE JOSEPHINE STATON TUCKER	
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	Proposed Statement of Uncontri	roverted Facts CV 10-01673- JST (JEMx)	

Plaintiff hereby respectfully submits this statement of uncontroverted facts and conclusions of law in support of his motion for summary judgment:

## I. UNCONTROVERTED FACTS

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4	UNCONTROVERTED FACT	SUPPORTING EVIDENCE
5	1. Xyris Enterprise, Inc. was a joint	Request for admission 1 propounded to
6	employer of Edgardo Seminiano	Defendant Xyris Enterprise, Inc.
7	between July 29, 2008, and December 2,	(Exhibit A); Request for admission 1
8	2009.	propounded to Atkinson Care Home
9		(Exhibit B); Request for admission
10		number 1 propounded to Muquet
11		Dadabhoy (Exhibit C); Request for
12		admission number 1 propounded to
13		Teresita Castaneda (Exhibit D);
14		Declaration of Dennis W. Rihn,
15		paragraphs 2-3.
16	2. Atkinson Care Home was a joint	Request for admission 2 propounded to
17	employer of Edgardo Seminiano	Defendant Xyris Enterprise, Inc.
18	between July 29, 2008, and December 2,	(Exhibit A); Request for admission 2
19	2009.	propounded to Atkinson Care Home
20		(Exhibit B); Request for admission
21		number 2 propounded to Muquet
22		Dadabhoy (Exhibit C); Request for
23		admission number 2 propounded to
24		Teresita Castaneda (Exhibit D);
25		Declaration of Dennis W. Rihn,
26		paragraphs 2-3.
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1	3. Muquet Dadabhoy was a joint	Request for admission 3 propounded to
2	employer of Edgardo Seminiano	Defendant Xyris Enterprise, Inc.
3	between July 29, 2008, and December 2,	(Exhibit A); Request for admission 3
4	2009.	propounded to Atkinson Care Home
5		(Exhibit B); Request for admission
6		number 3 propounded to Muquet
7		Dadabhoy (Exhibit C); Request for
8		admission number 3 propounded to
9		Teresita Castaneda (Exhibit D);
10		Declaration of Dennis W. Rihn,
11		paragraphs 2-3.
12	4. Teresita Castaneda was a joint	Request for admission 4 propounded to
13	employer of Edgardo Seminiano	Defendant Xyris Enterprise, Inc.
14	between July 29, 2008, and December 2,	(Exhibit A); Request for admission 4
15	2009.	propounded to Atkinson Care Home
16		(Exhibit B); Request for admission
17		number 4 propounded to Muquet
18		Dadabhoy (Exhibit C); Request for
19		admission number 4 propounded to
20		Teresita Castaneda (Exhibit D);
21		Declaration of Dennis W. Rihn,
22		paragraphs 2-3.
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5. Between July 29, 2008, and December	Request for admission 5 propounded t
2, 2009, Plaintiff worked as a caregiver	Defendant Xyris Enterprise, Inc.
at Atkinson Care Home.	(Exhibit A); Request for admission 5
	propounded to Atkinson Care Home
	(Exhibit B); Request for admission
	number 5 propounded to Muquet
	Dadabhoy (Exhibit C); Request for
	admission number 5 propounded to
	Teresita Castaneda (Exhibit D);
	Declaration of Dennis W. Rihn,
	paragraphs 2-3.
6. Between July 29, 2008, and December	Request for admission 6 propounded
2, 2009, Atkinson Care Home was a	Defendant Xyris Enterprise, Inc.
licensed residential care facility for the	(Exhibit A); Request for admission 6
elderly located at 17035 Atkinson	propounded to Atkinson Care Home
Avenue, Torrance, CA 90504.	(Exhibit B); Request for admission
	number 6 propounded to Muquet
	Dadabhoy (Exhibit C); Request for
	admission number 6 propounded to
	Teresita Castaneda (Exhibit D);
	Declaration of Dennis W. Rihn,
	paragraphs 2-3.

1	7. Between July 29, 2008, and December	Request for admission 7 propounded to
2	2, 2009, Defendants Muquet Dadabhoy	Defendant Xyris Enterprise, Inc.
3	and Teresita Castaneda were the	(Exhibit A); Request for admission 7
4	licensees of the Atkinson Care Home.	propounded to Atkinson Care Home
5		(Exhibit B); Request for admission
6		number 7 propounded to Muquet
7		Dadabhoy (Exhibit C); Request for
8		admission number 7 propounded to
9		Teresita Castaneda (Exhibit D);
10		Declaration of Dennis W. Rihn,
11		paragraphs 2-3.
12	8. Between July 29, 2008, and December	Request for admission 8 propounded to
13	2, 2009, Defendants Muquet Dadabhoy	Defendant Xyris Enterprise, Inc.
14	and Teresita Castaneda jointly operated	(Exhibit A); Request for admission 8
15	Atkinson Care Home as partners.	propounded to Atkinson Care Home
16		(Exhibit B); Request for admission
17		number 8 propounded to Muquet
18		Dadabhoy (Exhibit C); Request for
19		admission number 8 propounded to
20		Teresita Castaneda (Exhibit D);
21		Declaration of Dennis W. Rihn,
22		paragraphs 2-3.
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1 9. Between July 29, 2008, and December Request for admission 9 propounded to 2 2, 2009, Defendants Muquet Dadabhoy Defendant Xyris Enterprise, Inc. 3 and Teresita Castaneda were required to (Exhibit A); Request for admission 9 4 operate Atkinson Care Home 24 hours propounded to Atkinson Care Home 5 per day, 7 days per week. (Exhibit B); Request for admission 6 number 9 propounded to Muquet 7 Dadabhoy (Exhibit C); Request for 8 admission number 9 propounded to 9 Teresita Castaneda (Exhibit D); 10 Declaration of Dennis W. Rihn. 11 paragraphs 2-3. 12 10. Between July 29, 2008, and Request for admission 10 propounded to 13 December 2, 2009, Plaintiff Edgardo Defendant Xyris Enterprise, Inc. 14 Seminiano was required by Defendants (Exhibit A); Request for admission 10 15 Muquet Dadabhoy and Teresita propounded to Atkinson Care Home 16 Castaneda to request permission to leave (Exhibit B); Request for admission 17 number 10 propounded to Muquet Atkinson Care Home. 18 Dadabhoy (Exhibit C); Request for 19 admission number 10 propounded to 20 Teresita Castaneda (Exhibit D); 21 Declaration of Dennis W. Rihn, 22 paragraphs 2-3. 23 24 25 26 27 28

1 11. Plaintiff Edgardo Seminiano was Request for admission 11 propounded 2 never unconditionally allowed to leave to Defendant Xyris Enterprise, Inc. 3 Atkinson Care Home more than 57 hours (Exhibit A); Request for admission 11 4 in any week between July 29, 2008, and propounded to Atkinson Care Home 5 December 2, 2009. (Exhibit B); Request for admission 6 number 11 propounded to Muquet 7 Dadabhoy (Exhibit C); Request for 8 admission number 11 propounded to 9 Teresita Castaneda (Exhibit D); 10 Declaration of Dennis W. Rihn. 11 paragraphs 2-3. 12 12. Plaintiff's hours worked each week Request for admission 12 propounded to 13 between July 29, 2008, and December 2, Defendant Xyris Enterprise, Inc. 14 2009, were 111 or more. (Exhibit A); Request for admission 12 15 propounded to Atkinson Care Home 16 (Exhibit B); Request for admission 17 number 12 propounded to Muquet 18 Dadabhoy (Exhibit C); Request for 19 admission number 12 propounded to 20 Teresita Castaneda (Exhibit D); 21 Declaration of Dennis W. Rihn, 22 paragraphs 2-3. 23 24 25 26 27 28

13. Edgardo Seminiano did not have	Request for admission 13 propounded to
private living quarters while working at	Defendant Xyris Enterprise, Inc.
Atkinson Care Home.	(Exhibit A); Request for admission 13
	propounded to Atkinson Care Home
	(Exhibit B); Request for admission
	number 13 propounded to Muquet
	Dadabhoy (Exhibit C); Request for
	admission number 13 propounded to
	Teresita Castaneda (Exhibit D);
	Declaration of Dennis W. Rihn,
	paragraphs 2-3.
14. Between July 29, 2008, and	Request for admission 14 propounded to
December 2, 2009, Edgardo Seminiano	Defendant Xyris Enterprise, Inc.
slept on a couch at Atkinson Care Home.	(Exhibit A); Request for admission 14
	propounded to Atkinson Care Home
	(Exhibit B); Request for admission
	number 14 propounded to Muquet
	Dadabhoy (Exhibit C); Request for
	admission number 14 propounded to
	Teresita Castaneda (Exhibit D);
	Declaration of Dennis W. Rihn,
	paragraphs 2-3.
15. Xyris Enterprise, Inc. owes Edgardo	Request for admission 15 propounded to
Seminiano \$53,649.18 in unpaid	Defendant Xyris Enterprise, Inc.
minimum wage and overtime	(Exhibit A); Declaration of Dennis W.
compensation under the Fair Labor	Rihn, paragraphs 2-3.
Standards Act.	

1	16. Atkinson Care Home owes Edgardo	Request for admission 15 propounded to
2	Seminiano \$53,649.18 in unpaid	Defendant Atkinson Care Home (Exhibit
	minimum wage and overtime	B); Declaration of Dennis W. Rihn,
	compensation under the Fair Labor	paragraphs 2-3.
	Standards Act.	
	17. Muquet Dadabhoy owes Edgardo	Request for admission 15 propounded to
	Seminiano \$53,649.18 in unpaid	Defendant Muquet Dadabhoy (Exhibit
	minimum wage and overtime	C); Declaration of Dennis W. Rihn,
	compensation under the Fair Labor	paragraphs 2-3.
	Standards Act.	
	18. Teresita Castaneda owes Edgardo	Request for admission number 15
	Seminiano \$53,649.18 in unpaid	propounded to Teresita Castaneda
	minimum wage and overtime	(Exhibit D); Declaration of Dennis W.
	compensation under the Fair Labor	Rihn, paragraphs 2-3.
	Standards Act.	
	19. Xyris Enterprise, Inc. owes Edgardo	Request for admission 16 propounded to
	Seminiano \$53,649.18 in liquidated	Defendant Xyris Enterprise, Inc.
	damages under the Fair Labor Standards	(Exhibit A); Declaration of Dennis W.
	Act.	Rihn, paragraphs 2-3.
	20. Atkinson Care Home owes Edgardo	Request for admission 16 propounded to
	Seminiano \$53,649.18 in liquidated	Atkinson Care Home (Exhibit B);
	damages under the Fair Labor Standards	Declaration of Dennis W. Rihn,
	Act.	paragraphs 2-3.
	21. Muquet Dadabhoy owes Edgardo	Request for admission 16 propounded to
	Seminiano \$53,649.18 in liquidated	Defendant Muquet Dadabhoy (Exhibit
	damages under the Fair Labor Standards	C); Declaration of Dennis W. Rihn,
	Act.	paragraphs 2-3.
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## Case 2:10-cv-01673-JLS-JEM Document 25-3 Filed 11/17/10 Page 10 of 13 Page ID #:150

	22. Teresita Castaneda owes Edgardo	Request for admission 16 propounded to
2	Seminiano \$53,649.18 in liquidated	Defendant Teresita Castaneda (Exhibit
3	damages under the Fair Labor Standards	D); Declaration of Dennis W. Rihn,
ŀ	Act.	paragraphs 2-3.
5	23. Xyris Enterprise, Inc. owes Edgardo	Request for admission 17 propounded to
5	Seminiano \$121,855.42 in unpaid	Defendant Xyris Enterprise, Inc.
	overtime compensation under California	(Exhibit A); Declaration of Dennis W.
	law.	Rihn, paragraphs 2-3.
	24. Atkinson Care Home owes Edgardo	Request for admission 17 propounded to
	Seminiano \$121,855.42 in unpaid	Atkinson Care Home (Exhibit B);
	overtime compensation under California	Declaration of Dennis W. Rihn,
	law.	paragraphs 2-3.
	25. Muquet Dadabhoy owes Edgardo	Request for admission 17 propounded to
	Seminiano \$121,855.42 in unpaid	Defendant Muquet Dadabhoy (Exhibit
	overtime compensation under California	C); Declaration of Dennis W. Rihn,
	law.	paragraphs 2-3.
	26. Teresita Castaneda owes Edgardo	Request for admission 17 propounded to
	Seminiano \$121,855.42 in unpaid	Defendant Teresita Castaneda (Exhibit
	overtime compensation under California	D); Declaration of Dennis W. Rihn,
	law.	paragraphs 2-3.
	27. Xyris Enterprise, Inc. owes Edgardo	Request for admission 18 propounded to
	Seminiano \$4,749.36 in compensation	Defendant Xyris Enterprise, Inc.
	for meal periods not received pursuant to	(Exhibit A); Declaration of Dennis W.
	California Labor Code Section 226.7.	Rihn, paragraphs 2-3.
	28. Atkinson Care Home owes Edgardo	Request for admission 18 propounded to
	Seminiano \$4,749.36 in compensation	Atkinson Care Home (Exhibit B);
	for meal periods not received pursuant to	Declaration of Dennis W. Rihn,
	California Labor Code Section 226.7.	paragraphs 2-3.
	29. Muquet Dadabhoy owes Edgardo	Request for admission 18 propounded to

-10-

## Case 2:10-cv-01673-JLS-JEM Document 25-3 Filed 11/17/10 Page 11 of 13 Page ID #:151

	#:151	
1	Seminiano \$4,749.36 in compensation	Defendant Muquet Dadabhoy (Exhibit
2	for meal periods not received pursuant to	C); Declaration of Dennis W. Rihn,
3	California Labor Code Section 226.7.	paragraphs 2-3.
4	30. Teresita Castaneda owes Edgardo	Request for admission 18 propounded to
5	Seminiano \$4,749.36 in compensation	Defendant Teresita Castaneda (Exhibit
6	for meal periods not received pursuant to	D); Declaration of Dennis W. Rihn,
7	California Labor Code Section 226.7.	paragraphs 2-3.
8	31. Xyris Enterprise, Inc. owes Edgardo	Request for admission 19 propounded to
9	Seminiano \$2,467.20 for continuing	Defendant Xyris Enterprise, Inc.
10	wages pursuant to California Labor	(Exhibit A); Declaration of Dennis W.
11	Code Section 203.	Rihn, paragraphs 2-3.
12	32. Atkinson Care Home owes Edgardo	Request for admission 19 propounded to
13	Seminiano \$2,467.20 for continuing	Atkinson Care Home (Exhibit B);
14	wages pursuant to California Labor	Declaration of Dennis W. Rihn,
15	Code Section 203.	paragraphs 2-3.
16	33. Muquet Dadabhoy owes Edgardo	Request for admission 19 propounded to
17	Seminiano \$2,467.20 for continuing	Defendant Muquet Dadabhoy (Exhibit
18	wages pursuant to California Labor	C); Declaration of Dennis W. Rihn,
19	Code Section 203.	paragraphs 2-3.
20	34. Teresita Castaneda owes Edgardo	Request for admission 19 propounded to
21	Seminiano \$2,467.20 for continuing	Defendant Teresita Castaneda (Exhibit
22	wages pursuant to California Labor	D); Declaration of Dennis W. Rihn,
23	Code Section 203.	paragraphs 2-3.
24	35. Xyris Enterprise, Inc. owes Edgardo	Request for admission 20 propounded to
25	Seminiano \$4000.00 for failure to	Defendant Xyris Enterprise, Inc.
26	comply with California Labor Code	(Exhibit A); Declaration of Dennis W.
27	Section 226.	Rihn, paragraphs 2-3.
28	36. Atkinson Care Home owes Edgardo	Request for admission 20 propounded to

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1	Seminiano \$4000.00 for failure to	Atkinson Care Home (Exhibit B);
2	comply with California Labor Code	Declaration of Dennis W. Rihn,
3	Section 226.	paragraphs 2-3.
4	37. Muquet Dadabhoy owes Edgardo	Request for admission 20 propounded to
5	Seminiano \$4000.00 for failure to	Defendant Muquet Dadabhoy (Exhibit
6	comply with California Labor Code	C); Declaration of Dennis W. Rihn,
7	Section 226.	paragraphs 2-3.
8	38. Teresita Castaneda owes Edgardo	Request for admission 20 propounded to
9	Seminiano \$4000.00 for failure to	Defendant Teresita Castaneda (Exhibit
10	comply with California Labor Code	D); Declaration of Dennis W. Rihn,
11	Section 226.	paragraphs 2-3.
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12	II. CONCLUSIONS OF LAW	

Enterprise, Inc. on the first cause of action in the amount of \$107,298.36.

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Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Xyris Enterprise, Inc. on the second cause of action in the amount of \$133,071.98.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Atkinson Care Home on the first cause of action in the amount of \$107,298.36.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Atkinson Care Home on the second cause of action in the amount of \$133,071.98.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Muquet Dadabhoy on the first cause of action in the amount of \$107,298.36.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Muquet Dadabhoy on the second cause of action in the amount of \$133,071.98.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Teresita Castaneda on the first cause of action in the amount of \$107,298.36.

Plaintiff Edgardo Seminiano is entitled to judgment against Defendant Teresita Castaneda on the second cause of action in the amount of \$133,071.98.

## Case 2:10-cv-01673-JLS-JEM Document 25-3 Filed 11/17/10 Page 13 of 13 Page ID #:153

1	To avoid duplication of recoveries, Plaintiff Edgardo Seminiano is entitled to	
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	judgment in this action against Defendants Muquet Dadabhoy, Teresita Castaneda,	
3	Atkinson Care Home and Xyris Enterprise, Inc., jointly and severally, in the total	
4	amount of \$133,071.98.	
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6	Dated:	
7	THE HONORABLE JOSEPHINE STATON TUCKER, UNITED STATES DISTRICT COURT JUDGE	
8	COURT JUDGE	
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	Proposed Statement of Uncontroverted Facts CV 10-01673- JST (JEMx)	